

REMARKS

Forty-four claims were originally filed in the present Application. Claims 1-44 have been cancelled, and were replaced with claims 45-54. Claims 45, 49, and 52 are amended, and a new claim 55 is added herein. Reconsideration of the Application in view of the foregoing amendments and the following remarks is respectfully requested.

35 U.S.C. § 102(e)

In paragraph 3 of the Office Action, the Examiner rejects claims 45-54 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,659,861 to Faris et al. (hereafter Faris). The Applicants respectfully traverse these rejections for at least the following reasons.

“For a prior art reference to anticipate in terms of 35 U.S.C. §102, every element of the claimed invention must be *identically* shown in a single reference.” *Diversitech Corp. v. Century Steps, Inc.*, 7 USPQ2d 1315, 1317 (CAFC 1988). The Applicants submit that Faris fails to identically teach every element of the claims, and therefore does not anticipate the present invention.

Regarding the Examiner’s rejection of independent claims 45, 49, and 52, Applicants respond to the Examiner’s §102 rejection as if applied to amended independent claims 45, 49, and 52 which are amended to recite utilizing portable electronic device while being “*physically*” present at an event, which are limitations that are not taught or suggested either by the cited reference, or by the Examiner’s citations thereto.

Faris teaches a system for utilizing “a globally-extensive network (e.g. the Internet) to enable the competition among the participants.” In particular, Faris discloses “enabling timed-constrained competitions over the Internet . . . with millions of globally-time synchronized client machines engaged in a predetermined competition supported over the Internet” (see column 7, lines 40-54). Faris is therefore directed towards remote participation in an Internet competition in which the “client machines” are not physically present. In contrast, Applicants teach and claim utilizing portable electronic device while being “*physically*” present at an event. Applicants therefore respectfully submit that Faris fails to anticipate Applicants’ claimed invention.

Regarding the Examiner’s rejection of dependent claims 46-48, 50-51, and 53-54, for at least the reasons that these claims are dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 46-48, 50-51, and 53-54 so that these claims may issue in a timely manner.

Because a rejection under 35 U.S.C. §102 requires that every claimed limitation be *identically* taught by a cited reference, and because the Examiner fails to cite Faris to identically teach or suggest the claimed invention, Applicants respectfully request reconsideration and allowance of claims 45-54 so that these claims may issue in a timely manner.

New Claim 55

The Applicants herein submit a new claim 55 for consideration by the Examiner in the present Application. New claim 55 recites specific detailed embodiments for implementation and utilization of Applicants' invention, as disclosed and discussed in the Specification. Applicants submit that newly-added claim 55 contains limitations that are not taught or suggested by the cited reference. For example, claim 55 recites that "said event is a live event that includes at least one of a movie theater event, a sporting venue event, or a sports bar event." Applicants therefore respectfully request the Examiner to consider and allow new claim 55, so that that claim may issue in a timely manner.

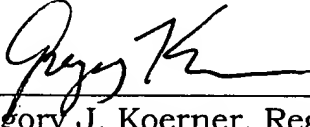
Summary

Applicants submit that the foregoing amendments and remarks overcome the Examiner's rejections. Because the cited references, or the Examiner's citations thereto, do not teach or suggest the claimed invention, and in light of the differences between the claimed invention and the cited prior art, Applicants therefore submit that the claimed invention is patentable over the cited art, and respectfully request the Examiner to allow claims 45-55, so that the present Application may issue in a timely manner. If there are any questions concerning this Response, the Examiner is invited to contact the Applicants' undersigned representative at the number provided below.

Respectfully submitted,

Date: 7/9/05

By: _____


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